

***Remarks***

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 1-24 are pending in the application, with claims 1, 19, and 20 being the independent claims. Claim 1 is amended to avoid any lack of antecedent basis problems with the phrase "to seal ~~the~~ edges of said foil bag..." This change is believed to introduce no new matter, and its entry is respectfully requested.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

***Double Patenting Rejections***

Claims 1-13 and claims 19-24 stand rejected under nonstatutory obviousness-type double patenting in view of at least U.S. Patent No. 6,685,691 to Freund *et al.*

The instant application, 10/754,499, ("the '499 application") is a divisional application of application 09/258,357 ("the '357 application"), which is now US Patent No. 6,685,691. During the prosecution of the '357 application, that Examiner made a restriction/election of species requirement on January 4, 2000. This requirement stated that the "application contains claims directed to the following **patentably distinct** species of the claimed invention:

- a. Figures 1, 4, 5a-b, 6-7, 8a-b, 9a-b, 12a-g, 13a-f, and 14.
- b. Figures 2, 4, 5a-b, 6-7, 8a-b, 10a-b, and 11a-b,
- c. Figures 3, 4, 5a-b, 6-7, 8a-b, 10a-b, and 11a-b." (emphasis added)

On February 4, 2000, Applicant responded to the restriction/election requirement, provisionally electing, without traverse, species a. The election was made without prejudice to or disclaimer of the other claims or inventions disclosed.

It appears that the distinguishing characteristic between species a, b, and c is the type of weld seam employed. Species a includes Figure 1, which has a "U-shaped traverse seam." Species b includes Figure 2, which has "two welded seams 22 extending in the longitudinal direction of the bag and, at its one end, a welded seam 23 extending in the transverse direction." Species c includes Figure 3, which has a "side fold bag ... which is closed at each of its two ends by a respective transversely extended welded seam 32."

Since species a was elected in the parent case, it is improper for the Examiner to give a double patenting rejection on a claim reading on species b or c. MPEP §804.01.

The Examiner has made at least two errors in the double patenting rejections. First, claim 19 of the instant ('499) application recites the weld seam of species b; therefore, a double patenting rejection is improper for that claim. Secondly, the Examiner alleges that the Freund *et al.* specification does not teach V and T welds. These welds are disclosed in Figures 10 and 11 and in column 8, lines 29-44 of the parent patent.

In order to overcome any valid double patenting rejections, applicants submit a terminal disclaimer.

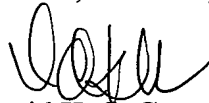
***Conclusion***

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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